



**MINUTES OF A REGULAR MEETING OF THE  
UPLAND PLANNING COMMISSION  
WEDNESDAY , MARCH 24, 2021  
AT 6:30 P.M.**

**1. CALL TO ORDER OF THE PLANNING COMMISSION REGULAR MEETING**

*Chair Aspinall* called the Regular Meeting of the Upland Planning Commission to order at 6:34 P.M.

**2. PLEDGE OF ALLEGIANCE**

The pledge of allegiance was led by *Commissioner Anderson*.

**3. ROLL CALL**

MEMBERS PRESENT:      *Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, and Mayer*

MEMBERS ABSENT:      *Commissioner Shim*

ALSO PRESENT:          *Development Services Director and Planning Commission Secretary Dalquest, Contract Planning Manager Poland, Assistant Planner Hong, Deputy City Attorney Maldonado, Administrative Analyst Davidson*

This Planning Commission meeting was conducted pursuant to the Governor's Executive Order N-29-20 which suspended certain requirements of the Brown Act and the City of Upland's Guidelines for Public Participation in City Council, Planning Commission, and Committee Meetings during the COVID-19 Emergency. All Commissioners and staff were present via videoconference. The public was able to observe the meeting via live stream on the City's website or the public access cable channels. Public comment was taken via telephone.

**4. APPROVAL OF MINUTES**

Moved by *Chair Aspinall*, to approve the Minutes of the Planning Commission meeting of February 24, 2021, as amended.

The motion was seconded by *Vice Chair Schwary*.

The motion carried by the following vote (6-0):

AYES:      *Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, and Mayer*

NAYS:      *None*      ABSTAINED:      *None*

ABSENT:      *Commissioner Shim*

**5. COUNCIL ACTIONS**

*Development Services Director Dalquest* advised there were no reportable items from the March 8, 2021 meeting. He reported the 2020 Housing Element Progress Report was reviewed, and an Exclusive Negotiation Agreement between the City and City Ventures Homebuilding, LLC to purchase a one-acre city-owned property on the corner of First Avenue and A Street for a townhome property was considered at the March 22, 2021 meeting. In response to *Chair Aspinall's* inquiry, *Development Services Director Dalquest* confirmed the project will come before the Planning Commission.

**6. FUTURE AGENDA ITEMS**

*Contract Planning Manager Poland* reported the next Planning Commission meeting will be on April 28, 2021 and advised there will be a Zoning Code text amendment to consider allowing Electronic Board signs at the high schools and a Conditional Use Permit Modification, which includes a variance and a development plan review for the expansion of the existing Chick-Fil-A driveway from one lane to two.

**7. ORAL COMMUNICATIONS**

*Chair Aspinall* opened oral communications. Seeing no members of the public wishing to address the Commission, *Chair Aspinall* closed oral communications.

**8. PUBLIC HEARING**

**A. CONDITIONAL USE PERMIT NO. 21-0001 (CUP 21-0001).**

**Project Description:** Consideration of a request to establish a craft brewery (Type 23 Small Beer Manufacture) within an existing commercial building and ancillary uses which include a coffee bar, outdoor seating, live entertainment, and recurring use of mobile food vendors. The project site is in the Historic Downtown Upland Specific Plan with a land use designation of Old Town District. The project is exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15301 of the CEQA Guidelines.

**Project Location:** 105 E. A Street, further described as Assessor's Parcel Number 1046-592-03.

**Applicant:** Nicolas Fuentes

*Assistant Planner Hong* provided a brief overview of the project which is located at 105 E. A Street and within the Historic Downtown Upland Specific Plan (HDUSP). She provided an overview of the coffee bar, brewing, serving, and live entertainment hours of operation and reported the Applicant proposes offering food serviced by mobile food vendors. She provided an overview of the site plan, floor plan, outdoor seating plan, and parking and circulation. She advised all the required findings for the Conditional Use Permit can be made for this project and noted the Technical Review Committee reviewed the project and recommended approval. Lastly, she advised staff recommends the Planning Commission adopt a Resolution approving Conditional Use Permit 21-0001, subject to conditions of approval set forth in the amended Draft Resolution dated March 24, 2021.

In response to *Vice Chair Schwary's* inquiry, *Assistant Planner Hong* reported no objections from neighboring property owners have been received. *Chair Aspinall* noted the area is fairly isolated.

In response to *Commissioner Caldwell's* inquiry, *Assistant Planner Hong* explained the outdoor food operations will allow for mobile food vendors, including mobile food stands and food trucks. She explained there is a side gate and driveway that will allow for a food truck to enter the outdoor patio area.

*Commissioner Anderson* expressed support for the item and identified a typo in Condition 30.1 that should state "beer produced" instead of "beer produce".

In response to *Commissioner Anderson's* inquiry, *Assistant Planner Hong* clarified the beer will be produced for on-site consumption. She deferred further questions to the Applicant.

In response to *Commissioner Anderson's* inquiry, *Development Services Director Dalquest* will inquire with the Police Department if they still offer a course in Alcohol Server Training. He encouraged the Applicant to take advantage of the course if it is available.

In response to *Commissioner Anderson's* inquiry, *Contract Planning Manager Poland* reported the City does not allow third-party vendors to promote events outside of the establishment in an attempt to avoid extensive crowds. *Development Services Director Dalquest* clarified it would not prohibit the owner from hiring an advertising agency or marketing firm to promote the establishment.

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In response to *Commissioner Mayer's* inquiry, *Development Services Director Dalquest* explained food trucks would need to obtain an Encroachment Permit to operate on the City's Right of Way and any food truck that operates on the property would need a Business License.

In response to *Chair Aspinall's* inquiry, *Development Services Director Dalquest* explained there is a City Noise Ordinance in the Municipal Code and any security issues would result in service calls by the Upland Police Department. He explained the Planning Commission can add additional conditions of approval to cover security but would like to hear about the Security Plan from the Applicant. *Contract Planning Manager Poland* explained Condition of Approval 80.29 states that if the Upland Police Department determines the establishment needs additional security, they will be required to provide a California Licensed Security Guard(s) at their expense for the hours requested by the Police Department.

*Chair Aspinall* opened the public hearing.

*Nicolas Fuentes*, Applicant, provided a brief overview of the project. He is agreeable to having multiple food vendors on site and feels it would contribute to the family-friendly environment they are envisioning. He advised they plan to have on-site beer sales and off-site beer sales in liquor stores and restaurants. He reported their servers will be certified through the California Department of Alcoholic Beverage Control through Responsible Beverage Services (RBS) Training. He explained they have intentions of hiring a hostess to manage indoor seating and have first-come-first-served outdoor seating.

In response to *Chair Aspinall's* inquiry, *Mr. Fuentes* reported they have a long-standing relationship with a barbeque vendor but are not opposed to having other vendors available.

In response to *Vice Chair Schwary's* inquiry, *Mr. Fuentes* reported they would like to install decomposed granite and turf along with shade sails in the outdoor seating area which will allow guests to play corn hole and other outdoor games.

In response to *Commissioner Anderson's* inquiry, *Mr. Fuentes* reported there will be shade sails but there will not be a roof.

*Commissioner Caldwell* expressed support for the project and the improved design elements.

*Administrative Analyst Davidson* reported the next public speaker advised their questions were answered by the Applicant and no longer wishes to speak.

*Chair Aspinall* closed the public hearing.

*Vice Chair Schwary* expressed support for the item and feels it is the future of downtown Upland.

*Chair Aspinall* echoed the comments of *Vice Chair Schwary* and *Commissioner Caldwell* and believes this will be a great improvement for downtown.

Moved by *Commissioner Anderson* to find that the project is Categorically Exempt from further environmental proceedings pursuant to Article 19, Section 15301, Existing Facilities, Class 1, of the California Environmental Quality Act (CEQA) Guidelines and to adopt a Resolution approving Conditional Use Permit 21-0001, subject to the conditions of approval as set for the in the amended Draft Resolution dated March 24, 2021.

The motion was seconded by *Commissioner Caldwell*.

The motion carried by the following vote (6-0):

AYES: *Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, and Mayer*

NAYS: *None* ABSTAINED: *None*

ABSENT: *Commissioner Shim*

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**B. CONDITIONAL USE PERMIT NO. 21-0003 (CUP 21-0003) AND ENVIRONMENTAL  
ASSESSMENT REVIEW NO. 21-0002 (EAR-21-0002).**

**Project Description:** Consideration of a request for an Alcohol Beverage Control (ABC) license to authorize the sale of beer, wine and distilled spirits for consumption on the premises (Type 47 On Sale-General Eating Place) for a new restaurant to occupy the former Mimi's Cafe. The project site is in the Commercial/Office Mixed-Use zoning district. The project is exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15301 of the CEQA Guidelines.

**Project Location:** 370 N. Mountain Avenue, further described as Assessor's Parcel Number 1007-521-06.

**Applicant:** Ana Benitez, Benitez Restaurants Inc.

*Contract Planning Manager Poland* provided a brief overview of the project which is a second Brandon's Diner in Upland and advised it is already operating but not currently selling alcohol. He provided an overview of the site plan, proposed use, and confirmed the request is for on-site alcohol consumption. He reported that staff has determined all the findings can be made regarding the on-site service of beer, wine and distilled spirits for Brandon's Diner as identified in the Resolution and staff recommends approval.

In response to *Commissioner Caldwell's* inquiry, *Contract Planning Manager Poland* clarified the former occupant Mimi's Café only had a Conditional Use Permit for beer and wine which expired.

In response to *Vice Chair Schwary's* inquiry, *Contract Planning Manager Poland* clarified the item is only to approve the Alcohol Beverage Control (ABC) license.

In response to *Chair Aspinall's* inquiry, *Contract Planning Manager Poland* clarified there are no development standards or design regulations in the Zoning Code to control the color but recommend the color be compatible with the building.

*Chair Aspinall* opened the public hearing.

*Ana Benitez*, Benitez Restaurants Inc. explained the former Mimi's Café left behind a small bar and she would like to maintain the Type 47 license that is consistent with the other locations so customers can enjoy margaritas and other mixed drinks with their Mexican food.

In response to *Chair Aspinall's* inquiry, *Ms. Benitez* confirmed the restaurant has been open for one week.

*Administrative Analyst Davidson* reported no public speakers are wishing to speak on the item.

*Chair Aspinall* closed the public hearing.

*Vice Chair Schwary* expressed support for the request.

Moved by *Vice Chair Schwary*, to find that the project is Categorically Exempt from further environmental proceedings pursuant to Article 19, Section 15301, Existing Facilities, Class 1, of the California Environmental Quality Act (CEQA) Guidelines and to approve the Amended Planning Commission Resolution for Conditional Use Permit No. 21-0003 to allow the on-sale service of beer, wine, and distilled spirits (Type 47 License), for a new restaurant (Brandon's Diner) at 370 N. Mountain Avenue, subject to the findings and Conditions of Approval in the Resolution.

The motion was seconded by *Commissioner Anderson*.

The motion carried by the following vote (6-0):

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AYES: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, and Mayer

NAYS: None ABSTAINED: None

ABSENT: Commissioner Shim

**C. CONDITIONAL USE PERMIT NO. 21-0002 (CUP-21-0002), DEVELOPMENT PLAN REVIEW NO 21-0001 (DPR 21-0001), and ENVIRONMENTAL ASSESSMENT REVIEW NO 21-0001 (EAR-21-0001).**

Project Description: Consideration of a request to allow a 1,300 square foot Rally's Restaurant to replace the existing Taco King Restaurant and re-use of the existing drive-through facilities. The project site is in the Commercial/Office Mixed-Use zoning district. The project is exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15303 of the CEQA Guidelines.

Project Location: 1317 E. Foothill Boulevard, further described as Assessor's Parcel Number 1045-481-16.

Applicant: Mario Ochoa, Gary Wang & Associates, Inc.

*Contract Planning Manager Poland* provided a brief overview of the project which is a request to allow a 1,300 square foot Rally's Restaurant to replace the existing Taco King Restaurant and re-use of the existing drive-through facilities. He provided a brief overview of the site plan, surrounding uses, development plan, site improvements, and parking.

*Contract Planning Manager Poland* reported a letter was received from the commercial property owner to the north expressing concern that skateboarders may jump from the incline on their property onto the Rally's property. She inquired if Rally's Restaurant could place a wall on the top of the incline to prevent that activity. *Contract Planning Manager Poland* explained if a wall was placed on top of the incline, the gap area would need to be filled in between the top of the curb on the commercial property and the base of the wall on the Rally's Restaurant property. He advised staff did not find this requirement necessary as there is nothing by Rally's Restaurant that may cause an impact.

*Contract Planning Manager Poland* advised the commercial property owner also expressed concern regarding the dumpster located in the northeast corner and the possibility residents will attempt to throw trash into the dumpster. He reported Rally's Restaurant has already committed to cleaning and maintaining the locked and enclosed dumpster area.

*Contract Planning Manager Poland* provided a brief overview of the proposed site architecture and business operations noting there is not an indoor dining room. He reported the existing vertical Taco King sign will remain intact in its current location due to its historical context but the plastic sign faces may change to reflect pertinent signage for Rally's Restaurant. He advised staff recommends approval.

*Commissioner Anderson* thanked Taco King for their years of service. She expressed support for the project and believes it will freshen up the east end of Foothill Boulevard.

In response to *Commissioner Anderson's* inquiry, *Contract Planning Manager Poland* confirmed a trash receptacle located at the exit from the drive-through was not included in the plan but could be added.

In response to *Commissioner Mayer's* inquiry, *Contract Planning Manager Poland* confirmed the site will only be a Rally's Restaurant and not a Checkers as well.

In response to *Commissioner Caldwell's* inquiries, *Contract Planning Manager Poland* clarified an overhang is not proposed for the drive-through window. He clarified an awning after the fact could be handled through an Administrative Determination Application. He explained a fence was discussed for the north property line but noted the gap would need to be filled due to drainage concerns.

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*Commissioner Grahn* noted there is a small awning over the drive-through window. He feels it is a great opportunity to bring a non-confirming site into compliance.

*Chair Aspinall* opened the public hearing.

*Daniel Diaz*, representing the Architect of Record for the project, expressed support for the project and noted the site will be softened with the landscape as it is currently a hardscaped site.

In response to *Chair Aspinall's* inquiry, *Mr. Diaz* confirmed the trash bin enclosure is a six-foot wall at the moment with no lattice for the time being. He explained a solid roof and security bars is the only true deterrent for anyone entering the area or disposing of trash. He advised a solid roof would need to be included in the findings to be incorporated into the project.

In response to *Vice Chair Schwary's* inquiry, *Mr. Diaz* clarified this is a franchise and the owner, *Wahid Karas* is local to the area and owns three other Rally's Restaurants in the area.

*Commissioner Anderson* requested to move forward with the roof enclosure for the trash area which was concurred by *Chair Aspinall*. In response to *Chair Aspinall's* inquiries, *Mr. Diaz* confirmed the trash area roof enclosure was not an issue for the architect and can be designed into the project. He confirmed a retaining wall near the incline was not considered as it would be costly. He also does not feel that landscape would be a good deterrent for skateboarders.

In response to *Commissioner Anderson's* inquiry, *Contract Planning Manager Poland* clarified the only issue with the incline has been with skateboarders.

In response to *Mr. Karas's* inquiry, *Vice Chair Schwary* explained there will be challenges with skateboarders on the property and the no skateboarding and no trespassing signage may not be enough of a deterrent. *Chair Aspinall* suggested *Mr. Karas* work with staff to come up with some ideas to deter the skateboarders.

*Chair Aspinall* expressed support for the project and was delighted to hear the historic sign would be kept.

In response to *Commissioner Mayer's* inquiry, *Mr. Diaz* clarified the property line is accurate and the location in question is City property. *Development Services Director Dalquest* agreed and clarified the property in question is owned by the City. *Chair Aspinall* suggested selling the small City property to the Applicant.

*Chair Aspinall* closed the public hearing.

*Vice Chair Schwary* expressed support for the project and noted all projects brought forward at the meeting will help revitalize Upland. He expressed support for the trash enclosure.

Moved by *Vice Chair Schwary*, to find the project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15303(c) of the CEQA Guidelines and to approve Planning Commission Resolution for Conditional use Permit No. 21-0002 and Development Plan Review No. 21-0001 to allow reuse of an existing restaurant with drive-through service for a new Rally's Restaurant located at 1317 E. Foothill Boulevard, subject to the findings and the Conditions of Approval in the Resolution with the added condition that the trash area will be covered and that the Applicant will consider mitigating risk due to skateboarders.

The motion was seconded by *Commissioner Anderson*.

The motion carried by the following vote (6-0):

AYES: *Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, and Mayer*

NAYS: *None* ABSTAINED: *None*

ABSENT: *Commissioner Shim*

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**9. BUSINESS ITEMS**

*None*

**10. COMMISSION COMMENTS**

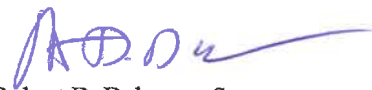
*Commissioner Anderson* thanked *Contract Planning Manager Poland* for his thorough explanation of concerns received from Regional Foot and Ankle Medical Center regarding Rally's Restaurant.

In response to *Chair Aspinall's* inquiry, she along with *Commissioners Anderson, Grahn, and Mayer* and *Development Services Director Dalquest* reported they will be attending the League of California Cities Planning Commissioners Conference on March 25, 2021.

**11. ADJOURNMENT**

There being no further business to come before the Planning Commission, *Chair Aspinall* asked for a motion to adjourn the meeting. Motion to adjourn was made by *Vice Chair Schwary*, seconded by *Commissioner Mayer* and the Planning Commission unanimously voted in favor. *Chair Aspinall* adjourned the meeting at 8:02 P.M., to the regular meeting of the Planning Commission on April 28, 2021, at 6:30 P.M.

Respectfully submitted,



Robert D. Dalquest, Secretary  
Upland Planning Commission